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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,600	06/26/2003	Michael D. Max	018984-0304000	2866

909 7590 10/05/2004

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EXAMINER

ZEC, FILIP

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/603,600	Applicant(s) MAX, MICHAEL D.	
	Examiner Filip Zec	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 9, 12, 16, 17, 21, 24-26 and 32-34 is/are rejected.
- 7) ☒ Claim(s) 2-5, 7, 8, 10, 11, 13-15, 18-20, 22, 23, 27-31 and 35-49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/03, 1/04 & 5/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 6, 12, 16, 17, 21, 26 and 32-34 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 10/323,920 in view of German Patent Application DE 19632272 to Eisold. Application No. 10/323,920 discloses applicant's basic inventive concept, a condensation panel used for harvesting water from atmospheric moisture during those times of the diurnal cycle when relative humidity is at or near 100% and utilizes very localized cooling to optimize condensation on a surface whose materials promote the condensation and collection of the water, substantially as claimed with the exception of stating that the solar panel and the condenser form an air passageway through which the atmospheric air passes through and condenses. Eisold shows an air passageway through which the atmospheric air passes through and condenses (FIG. 2, between 11 and 3). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Eisold to modify the system of Application No. 10/323,920, by having an air passageway through which the

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atmospheric air passes through and condenses in order to provide space for enough air to pass through and yet keep the condensation from the solar panel.

This is a provisional obviousness-type double patenting rejection.

3. Claims 24 and 25 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 10/323,920 in view of U.S. Patent 4,429,545 to Steinberg. Application No. 10/323,920 discloses applicant's basic inventive concept, a condensation panel used for harvesting water from atmospheric moisture, substantially as claimed with the exception of stating that the solar panels could be or form a part of a roof. Steinberg shows solar panels forming a roof to be old in the air-conditioning art (col 7, lines 18-20). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teaching of Steinberg to modify the system of Application No. 10/323,920, by having solar panels forming a roof in order to optimize the sun-exposure time.

This is a provisional obviousness-type double patenting rejection.

4. Claim 9 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 10/323,920 in view of U.S. Patent 6,349,563 to Kinoshita. Application No. 10/323,920 discloses applicant's basic inventive concept, a condensation panel used for harvesting water from atmospheric moisture, substantially as claimed with the exception of stating the use of a hydrophilic cloth in the condensation membrane. Kinoshita shows a hydrophilic cloth in the condensation membrane to be old in the air-conditioning art (col 6, lines 51). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was

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made from the teaching of Kinshita to modify the system of Application No. 10/323,920, by having a hydrophilic cloth in the condensation membrane in order to have the purified salt water permeating the membrane (col 6, lines 51-54).

This is a provisional obviousness-type double patenting rejection.

Allowable Subject Matter

5. Claims 2-5, 7, 8, 10, 11, 13-15, 18-20, 22, 23, 27-31 and 35-49 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patents 5,846,296 to Krumsvik, Per Kare teaches method and device for recovering water from a humid atmosphere.

U.S. Patents 5,857,344 to Rosenthal, Richard A. teaches atmospheric water extractor and method.

U.S. Patents 6,581,849 to Zhang, Zhengyu teaches automatic semi-conductor condensate flower-watering device.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Filip Zec whose telephone number is (703) 306-3446 or (571)

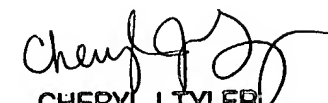
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272-4815. The examiner can normally be reached on Monday through Friday, with the exception of every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597 or (571) 272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Filip Zec
Examiner
Art Unit 3744


CHERYL J. TYLER
PRIMARY EXAMINER

FZ